

## **Amendments to the Drawings**

### **In the Drawings**

The drawings are objected to under 37 CFR 1.83(a). The Office requires a proposed drawing correction or corrected drawing sheets, or that the specific threaded engagements of claims 5 and 6 be canceled from the claims.

In response, Applicant herein requests the Office to cancel claims 5 and 6 without prejudice, until appropriate replacement drawing sheets can be prepared.

Additionally, Applicant submits both a replacement drawing sheet and an annotated drawing sheet containing Figs. 9A to 9C.

## **REMARKS**

Applicant acknowledges that claims 1 to 6 are pending in the application, and that the Office currently holds claims 1 to 6 as rejected. Applicant herein cancels claims 5 and 6, and adds new claim 7.

### In the Drawing

The Office objects to the drawings, stating two issues: (1) that the adjustable handle lengths of the primary and secondary handles must be shown or the features canceled from the claims, and (2) that it is unclear whether item 30 is the hinge or the second swivel member.

In response to issue (1), Applicant herein cancels claims 5 and 6 drawn to the adjustable handle length features of the present invention. Applicant cancels these claims without prejudice and in the interest of expediting prosecution.

In response to issue (2), Applicant herein amends the relevant paragraph of the specification to correct minor editorial problems noted by the Examiner. The amendment adds no new matter to the application.

Additionally, Applicant submits replacement drawing sheet containing Figs. 9A to 9C. As indicated by the red highlights in the attached annotated drawing sheet, the replacement sheet removes text from Figs. 9A and 9B, and adds reference numeral "46" missing from the existing lead line in Fig. 9B.

In the Claims

Applicant herein cancels claims 5 and 6 without prejudice.

Applicant herein adds new claim 7 to more clearly claim that subject matter which Applicant considers to be his invention. Specifically, Applicant expressly claims the feature of the present invention wherein the secondary handle is always capable of pivoting or swinging in two different planes relative to the primary handle. Support for this feature is clearly illustrated in the figures, especially Figs. 9A to 9C. Specifically, Figs. 9A to 9C illustrate the mechanism by which the hinge coupling assembly allows the secondary handle to swing in a plane perpendicular to the primary handle via the hinge plate/swivel attachment member of the hinge means pivoting about the hinge pin. Additionally, Figs. 9A to 9C illustrate the mechanism by which the hinge coupling assembly allows the secondary handle to swing in a plane parallel to the primary handle via the swivel member receiver end of the secondary handle pivoting about the swivel fastener of the handle swivel means. Therefore, this feature is disclosed in the application as filed and the new claim to this feature adds no new matter to the application.

35 USC §102(b)

The Office holds claims 1 to 6 rejected under 35 USC §102(b) as being anticipated by Lucas, US Patent No. 5,921,600 (the ‘600 patent). Applicant respectfully traverses this rejection.

In response, Applicant points out that the cited patent fails to establish a *prima facie* case of anticipation wherein a single reference expressly or inherently teaches or enables each of the claimed elements (arranged as in the claim) as interpreted by one of ordinary skill in the art. Specifically, Applicant points out that the “hinge coupling assembly” of instant independent claim 1 is neither taught nor suggested in the Lucas reference.

More specifically, the “hinge coupling assembly” of the present invention is disclosed as having both a “hinge” means and a “swivel” means. These two features are structurally and functionally different from each other in the context of the present invention. The structural and functional differences between these two features is readily distinguishable by one of ordinary skill in the art. Further, it is their combination in the “hinge coupling assembly” that enables the secondary handle to be swung or pivoted in two different planes relative to the primary handle.

In contrast, the coupling assembly of the Lucas ‘600 patent comprises two of the same structures, which at best are equivalent to a swivel means. In further contrast, the coupling assembly of the Lucas device only allows its secondary handle to swing or pivot in just one plane relative to the tool’s primary handle.

Therefore, the Lucas reference does not teach or enables each of the claimed elements (arranged as in the claim) as interpreted by one of ordinary skill in the art. Hence, the Lucas ‘600 patent does not anticipate the present invention, and is not a proper §102(b) reference.

#### Anticipation Under §102(b)

The standard for finding anticipation is one of strict identity. In other words, to anticipate under §102, a single prior art reference must disclose all the elements, or disclose their equivalents functioning in the same way as the claimed invention (*Shanklin Corp. v. Springfield Photo Mount Co.*, 187 USPQ 129, 133). Further, “too many structural and operational differences” can negate anticipation within the meaning of §102 (*ibid.*, 134). According to the Federal Circuit, “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W.L. Gore & Assocs. v. Garlock, Inc.*, 220 USPQ 303, 313 (Fed. Cir. 1983), cites omitted. It is not enough, however, that the reference disclose all the claimed elements in isolation. Rather, as stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention “*arranged as in the claim.*” *Lindermann Maschinenfabrik GmbH v. American*

*Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), cites omitted. Thus even if the prior art reference includes all the elements that are claimed, if the arrangement of the claimed elements is different from the arrangement of the prior art elements, anticipation will not be present. Applicant submits that the present “hinged coupling assembly” is neither expressly nor inherently disclosed in the Lucas reference. Therefore, in view of the standard for determining anticipation set forth above, the present invention is not anticipated by the Lucas ‘600 patent, as further remarked below.

Applicant submits that the Lucas ‘600 patent reference does not disclose each element of the claimed invention as required by the Federal Circuit. The instant claims clearly include the element of “hinge coupling,” the hinge coupling being a combination of a “hinge means” and a “swivel means.” Applicant point out that the Lucas ‘600 patent does not disclose a “hinge coupling assembly,” nor does Lucas teach or suggest the equivalent of the “hinge” means element of the instant claims.

Regarding the “hinge” means, absent teaching in the disclosure otherwise, a term used in the claims is to be given its ordinary dictionary meaning. Applicant submits that the term “hinge” as used in the instant claims and disclosure is to be given its ordinary dictionary meaning: i.e., “a jointed. . . device on which a . . . swinging part turns.” See Exhibit A: Webster’s Universal Encyclopedic Dictionary, Merriam-Webster, Inc., Barns & Nobel Pub., 2002. Also see Exhibit B: <http://www.yourdictionary.com/>, The American Heritage® Dictionary of the English Language, 4th Edition, 2002, Houghton Mifflin Company Pub. showing an illustration of common mechanical hinge devices. The Lucas reference does not teach or suggest such a mechanical hinge device/means, nor a “hinge coupling assembly” having all the elements or their equivalents functioning in the same way as the claimed invention

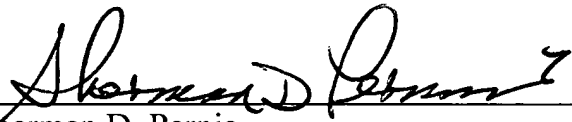
Regarding Claims 2-6: Rejection Moot

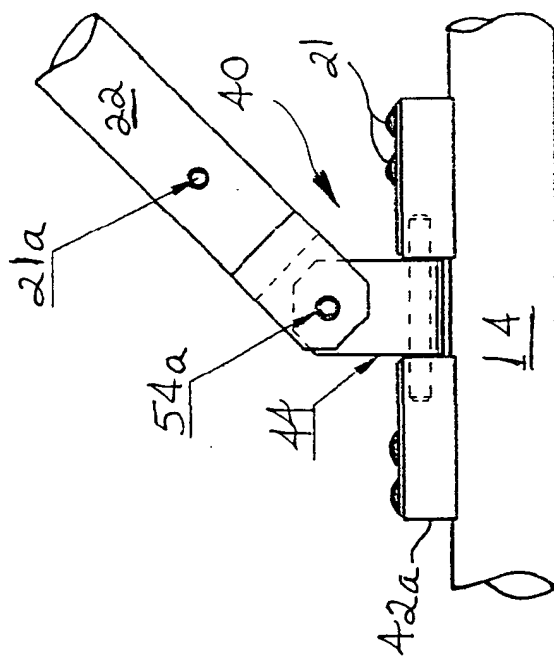
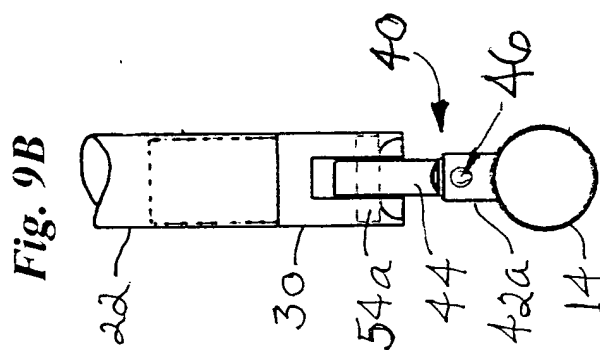
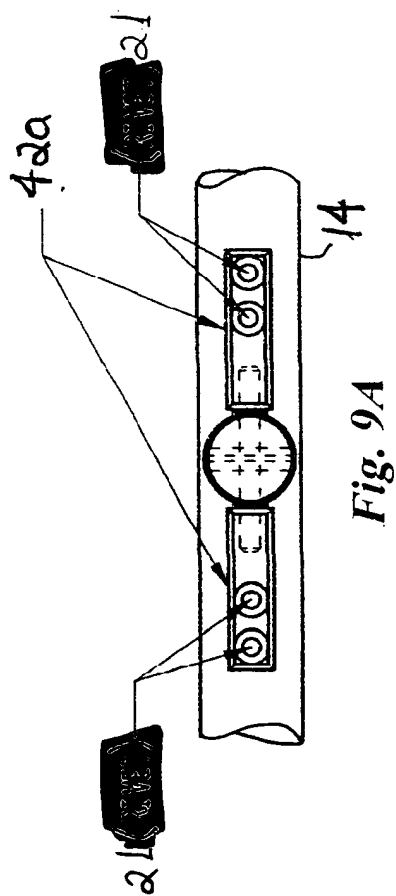
In view the above amendment and remarks regarding independent claim 1, Applicant submits that the current rejection of dependent claims 2-6 under §102(b) is now moot.

Applicant believes that the above amendments and remarks are fully responsive to the Office Action mailed 13 January 2005. Applicant respectfully requests reconsideration and removal of all objections and rejections of claims, and that, in view of the above amendments and remarks, the application is now in condition for allowance. Applicant respectfully requests the Examiner to contact the undersigned to timely resolve any minor issues that may remain in the application. Alternatively, Applicant invites the Examiner to suggest alternative claim language for Applicant's consideration, in order to facilitate timely prosecution of this application.

Respectfully submitted,

12 April 2005  
Date

  
\_\_\_\_\_  
Sherman D. Pernia  
Registration No. 34,404  
281-335-4505



3